

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHAWN MOORE,	:	
Plaintiff,	:	
	:	CIVIL ACTION NO. 1:18-CV-1523
v.	:	
	:	Judge Sylvia H. Rambo
JOHN WETZEL, <i>et al.</i>,	:	
Defendants.	:	

ORDER

Before the Court for disposition is Magistrate Judge Martin C. Carlson's Report and Recommendation (Doc. No. 46), which recommends granting in part and denying in part the Motions to Dismiss (Doc. Nos. 4, 22) filed by Defendants John Wetzel, Joseph Silva, Paul Noel, and Correct Care Solutions. Objections to the Report and Recommendation were due by March 20, 2019, but no such objections have been filed.¹ Objections to the Report and Recommendation were due by February 15, 2019, but no such objections have been filed.²

¹ Specifically, Magistrate Judge Carlson recommended: (1) consolidating Counts I and VI of the Complaint, which allege Eighth Amendment violations, for further proceedings; (2) denying without prejudice the motion to dismiss the Eighth Amendment claims against Correct Care Solutions; (3) dismissing Moore's claims for damages under the Pennsylvania Constitution; (4) dismissing Moore's Fourteenth Amendment due process and equal protection claims; and (5) denying the motion to dismiss Moore's pendent state law medical negligence claims.

² Since then, Moore filed a Motion to Strike and Motion for Extension of Time to File Brief (Doc. No. 47), which Magistrate Judge Carlson denied by Memorandum Order entered on March 8, 2019 (Doc. No. 49). Moore also filed a Motion for Leave and Extension of Time to File Sur-Reply to Correct Care Solutions' Reply to the Brief in Opposition (Doc. No. 50), which Magistrate Judge Carlson denied by Order

In considering whether to adopt the Report and Recommendation, the Court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the report for clear error). Following an independent review of the record, the Court is satisfied that the Report and Recommendation contains no clear error, and will therefore adopt the Report and Recommendation to grant in part and deny in part the Motions to Dismiss filed by Defendants John Wetzell, Joseph Silva, Paul Noel, and Correct Care Solutions. Accordingly, **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation (Doc. No. 46) is **ADOPTED**;
2. The Motions to Dismiss (Doc. Nos. 4, 22) are **GRANTED IN PART** and **DENIED IN PART**, as follows:
 - a. The Motion to Dismiss the Eighth Amendment claims against Correct Care Solutions is **DENIED**;
 - b. Counts I and VI of the Complaint, which allege Eighth Amendment violations, are **CONSOLIDATED** for further proceedings;

entered on March 11, 2019 (Doc. No. 51). On March 12, 2019, the Court received a Declaration from Moore. (Doc. No. 52.) None of these filings have any relevance to the Report and Recommendation.

- c. The Motions to Dismiss are **GRANTED** as to Moore's claims for damages under the Pennsylvania Constitution;
- d. The Motions to Dismiss are **GRANTED** as to Moore's Fourteenth Amendment due process and equal protection claims;
- e. The Motions to Dismiss Moore's pendent state law medical negligence claims are **DENIED**.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: March 27, 2019